UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

K.C., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:23-cv-00595-JPH-KMB
	)	
THE INDIVIDUAL MEMBERS OF THE MEDICAL LICENSING BOARD OF INDIANA, in their official capacities, *et al.*,	)	

Stipulation of Facts

The parties file their stipulation of the below facts for this Court's use in resolving the plaintiffs' motion for preliminary injunction. Although the parties agree to the below-enumerated facts, they do not stipulate that all of the facts are relevant to this Court's determination of the pending motions or underlying causes of action.

1. A person's sex at birth is generally identified based on a clinician's examination of their external genitalia.

2. The Diagnostic and Statistical Manual of Mental Disorders ("DSM") is a reference work published by the American Psychiatric Association that is used by health care professionals as a guide to the diagnosis of mental disorders.

3. The most recent edition of the DSM, the Fifth Edition, was published in 2013. It is referred to as "DSM-5."

4. There has been a text revision of DSM-5 that is referred to as DSM-5-TR.

5. The DSM-5 and DSM-5-TR list the following criteria for the diagnosis of "Gender Dysphoria in Children," which applies only to pre-pubertal children:

A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months duration, as manifested by at least six of the following (one of which must be criterion A1):

1. A strong desire to be of the other gender or an insistence that one is the other gender (or some alternative gender different from one's assigned gender).
2. In boys (assigned gender), a strong preference for cross-dressing or simulating female attire; or in girls (assigned gender), a strong preference for wearing only typical masculine clothing and a strong resistance to the wearing of typical feminine clothing.
3. A strong preference for cross-gender roles in make-believe play or fantasy play.
4. A strong preference for the toys, games, or activities stereotypically used or engaged in by the other gender.
5. A strong preference for playmates of the other gender.
6. In boys (assigned gender), a strong rejection of typically masculine toys, games, and activities and a strong avoidance of rough-and-tumble play; or in girls (assigned gender), a strong rejection of typically feminine toys, games, and activities.
7. A strong dislike for one's sexual anatomy.
8. A strong desire for the primary and/or secondary sex characteristics that match one's experienced gender.

B. The condition is associated with clinically significant distress or impairment in social circles, school, or other important acts of functioning.

6. The DSM-5 and DSM-5-TR list the following criteria for the diagnosis of "Gender Dysphoria in Adolescents and Adults":

A. A marked incongruence between experience/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least two of the following:

1. A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics).
2. A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics).
3. A strong desire for the primary and/or secondary sex characteristics of the other gender.
4. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender).
5. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender).
6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).

B. The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

7. DSM III-R and DSM-IV, earlier versions of the DSM, did not refer to "gender dysphoria" but referred to "gender identity disorder."

8. The World Professional Association of Transgender Health (WPATH) has issued *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* since 1979. The current version, the eighth edition, was published in 2022 and is referred to as WPATH SOC 8. The most recent prior edition, the seventh, is referred to as WPATH SOC 7.

9. The Endocrine Society also publishes guidelines concerning the treatment of persons with gender dysphoria. The most recent clinical guideline published by the

Endocrine Society concerning the treatment of persons with gender dysphoria, was published in 2017.

10. Gonadotropin-releasing hormone analogues or agonists ("GnRHa") are commonly known as "puberty blockers," "puberty blockade," or "pubertal suppression" and when administered will pause the progression of endogenous pubertal development.

11. Puberty blockers have been used in pediatrics for several decades to treat central precocious puberty.

12. Puberty blockers work by desensitizing the pituitary gland and reducing the release of luteinizing hormone [LH] and follicle stimulating hormone [FSH], which stimulate the testes or ovaries to produce sex hormones.

13. Tanner Stage 2 is the stage in puberty where the physical effects of testosterone or estrogen production are first apparent on physical examination. For individuals identified male at birth, Tanner Stage 2 typically occurs between ages 9–14, and for those identified female at birth between ages 8–12.

14. No Indiana provider performs gender-transition surgery on persons under the age of 18.

15. There is no medical or surgical treatment indicated for children with gender dysphoria pre-puberty (that is, pre-Tanner 2).

16. "Social transition" refers to non-medical and non-surgical steps that individuals may take to express their gender identity as opposed to their sex at birth. Social transition

may include changing their first name to something more stereotypical of the opposite sex; declaring the pronouns that they wish to be used to describe them; and changing their hair and clothing styles. In an effort to change their outward appearance, post-pubescent transgender males, i.e. natal females, may wear chest binders, which are devices designed to flatten their chests.

17. K.C. is the child of Nathaniel and Beth Clawson who reside as a family in Indiana.

18. K.C. is currently 10 years old.

19. K.C. was identified male at birth based on a visual inspection of K.C.'s external genitalia.

20. Before age 4, K.C. left a bath, grabbed a pair of scissors, and asked to cut off K.C.'s penis, asserting that it should not be there.

21. K.C.'s parents noticed that K.C. was becoming depressed and withdrawn.

22. K.C.'s parents discussed the matter with the child's pediatrician at I.U. Health who diagnosed K.C. as having gender dysphoria.

23. The pediatrician referred K.C.'s parents to a mental health provider who provided play therapy to K.C.

24. K.C. socially transitioned before K.C. was 4 years old and uses female pronouns.

25. The gender marker on K.C.'s birth certificate has been changed to female. Because K.C. was born while K.C.'s parents temporarily resided in China, K.C.'s birth certificate

was issued by the United States State Department and K.C.'s gender marker was changed by the State Department.

26. K.C. has Type 1 diabetes and has been followed by an endocrinologist at I.U. Health since K.C. was 5 years old.

27. K.C.'s first appointment with the Riley Gender Health Clinic ("Riley") was in June of 2017. K.C. was again diagnosed with gender dysphoria.

28. K.C. has been seen periodically thereafter at Riley to monitor pubertal development and remains a patient at Riley.

29. In 2023 physicians at Riley prescribed the puberty blocker Supprelin for K.C., which is delivered through an implant placed underneath the skin in the upper arm. The surgery to insert the implant was performed on April 26, 2023.

30. In addition to gender dysphoria and diabetes, K.C. has been diagnosed with attention-deficit/hyperactivity disorder (ADHD), persistent depressive disorder, general anxiety disorder, celiac disease, and osteomyelitis.

31. M.W. is a 16-year-old resident of Indiana who resides with M.W.'s parents Ryan and Lisa Welch.

32. M.W. was identified female at birth based on a visual inspection of M.W.'s external genitalia.

33. At the age of 11 or 12, M.W. became depressed, withdrawn, and anxious, and began to be seen by a therapist.

34. At the age of 12, M.W. wrote a letter to Ryan and Lisa Welch declaring that M.W. was "bisexual."

35. M.W.'s parents spoke to M.W. about the letter and in the conversation M.W. declared that M.W. was "pansexual."

36. M.W. soon thereafter declared that M.W. is a transgender male and began to socially transition as a male two years ago, at the age of 14.

37. M.W. uses a stereotypically male first name and male pronouns.

38. M.W. wears a chest binder.

39. In November of 2021, the Welches sought medical care from Riley for M.W.

40. Riley conducted an initial evaluation of M.W. in April of 2022 and M.W. has been seen periodically since that time.

41. M.W. was diagnosed with gender dysphoria in adolescence, unspecified depressive disorder, unspecified anxiety disorder, and attention deficit disorder.

42. M.W. is currently in counseling with a mental health therapist.

43. M.W. was prescribed testosterone and had the first injection of testosterone in July of 2022. Because of the pain and rash caused by the injections the prescription was changed to a gel and M.W. continues to receive testosterone through application of the gel.

44. M.W. was tested for autism after starting testosterone; test results are expected in June 2023.

45. M.W. was prescribed norethindrone to suppress menstruation. The medication was discontinued because of adverse side-effects.

46. With testosterone there has been a growth of M.W.'s facial and body hair.

47. M.W.'s voice has also deepened.

48. The Welches are pursuing a legal name change for M.W.

49. A.M. is currently 11 and lives with A.M.'s mother Emily Morris and a sibling.

50. A.M. and family live in Indiana.

51. At birth, A.M. was identified male based on a visual inspection of A.M.'s external genitalia.

52. Before A.M. was 4 years of age, A.M. stated to family members that A.M. was a girl and was thinking about trying to cut off A.M.'s penis.

53. A.M. socially transitioned before the age of 4.

54. Since that time A.M. has used a stereotypically female first name and female pronouns.

55. Most persons outside of A.M.'s family know A.M. as a girl.

56. In 2021 an Indiana trial court changed the gender marker on A.M.'s birth certificate to female and A.M.'s legal name to the stereotypically female name that the child has been using.

57. In other cases, Indiana trial judges have refused to order changes to gender markers on birth certificates other than to correct scrivener's errors. Decisions of the Indiana Court of Appeals on the issue are in conflict.

58. A.M. was a victim of physical and sexual abuse from A.M.'s father. The father has had no contact with A.M. since 2018.

59. Emily Morris sought assistance from A.M.'s primary care physician in 2017 because of what Emily Morris perceived as gender dysphoria and A.M. was eventually placed on the waiting list to receive services at Riley.

60. The primary care physician diagnosed A.M. with gender dysphoria, depression, and anxiety.

61. In May of 2018, A.M. began to see a therapist who diagnosed A.M. with post-traumatic stress disorder.

62. In August of 2018, Emily Morris took A.M. to the emergency room because of suicidal ideation, and shortly thereafter A.M. began to receive outpatient counseling through the Sandra Eskenazi Mental Health Center ("Eskenazi").

63. These services at Eskenazi continued through June of 2022.

64. A.M.'s initial visit with medical staff at Riley was in January of 2019, and A.M. was diagnosed as having gender dysphoria in childhood.

65. At a subsequent visit in 2021, A.M.'s puberty was documented as having progressed to Tanner 2 in development and Lupron, a puberty blocker, was prescribed.

66. A.M. received the first Lupron injection in August of 2021 and continues to receive Lupron to treat diagnosed gender dysphoria.

67. A.M. is on Medicaid; Medicaid has paid claims submitted for the puberty blocker and for A.M.'s visits to Riley to receive treatments for gender dysphoria.

68. Emily Morris plans to discuss with the medical staff at Riley whether A.M. should receive estrogen.

69. M.R. is 15 years old and lives in Indiana with M.R.'s mother, Maria Rivera, father, and siblings.

70. M.R. was identified as female at birth based on a visual inspection of M.R.'s external genitalia.

71. Around age 13 or 14, M.R. began dating both girls and boys and dressing with a more stereotypically male haircut and clothing.

72. In December of 2021 M.R. declared to Maria Rivera and her husband that M.R. is a transgender male.

73. M.R. now consistently uses a stereotypically male first name and male pronouns both inside and outside the home.

74. M.R. saw a mental health counselor in 2022 and again in 2023.

75. During the 2022 school year, M.R. started to exhibit symptoms of ADHD. M.R. did not want to do chores or participate in family activities. M.R. was drinking alcohol up to

several times per week. M.R. experienced distress about teachers misgendering M.R. and not using M.R.'s preferred name.

76. After M.R. repeatedly missed school, M.R.'s parents decided to withdraw M.R. from school. M.R. threatened to commit suicide. M.R. was seen in an emergency room and then spent 10 days as an in-patient at Michiana Behavioral Health Center.

77. M.R. was diagnosed at Michiana Behavioral Health Center with major depressive disorder and gender dysphoria. Michiana Behavioral Health Center treated the depressive disorder but not gender dysphoria. M.R. reported good results from the treatment.

78. M.R. has also been diagnosed with ADHD.

79. Shortly after M.R. was discharged from the Michiana Behavioral Health Center, M.R. and Maria Rivera saw Dr. Catherine Bast at Mosaic Health & Healing Arts ("Mosaic").

80. Dr. Bast listed as diagnoses gender dysphoria; major depressive disorder, single episode, unspecified; and ADHD.

81. Dr. Bast prescribed testosterone for M.R., and M.R. began to receive it two weeks later. Dr. Bast prescribed antidepressants as well.

82. M.R. continues to receive testosterone. M.R. is stopping the antidepressants.

83. Mosaic is located in Goshen, Indiana.

84. Aside from Dr. Bast, Mosaic employs three other health care professionals licensed by the State of Indiana—two licensed nurse practitioners and a licensed mental health professional.

85. Dr. Bast is board certified in family practice medicine and is licensed in the State of Indiana.

86. Mosaic provides family-practice medical services.

87. As of April 20, 2023, Mosaic had 72 patients under the age of 18 who are diagnosed with gender dysphoria and who have been prescribed puberty blockers and/or hormones.

88. The Eskenazi Health Gender Health Program ("Eskenazi Gender Health") provides services to gender dysphoria patients. The only minor gender dysphoria patients that it serves are post-pubertal. Accordingly, Eskenazi Gender Health does not provide puberty blockers.

89. Eskenazi Gender Health does not provide gender transition surgery for minors.

90. However, it does provide hormones to some of its minor patients diagnosed with gender dysphoria.

91. At the current time Eskenazi Gender Health has fewer than 20 minor gender dysphoria patients.

92. In providing services to minor gender dysphoria patients, Eskenazi Gender Health relies on, among other things, WPATH SOC 7.

93. There are approximately 20 health professionals licensed by the State of Indiana providing services to gender dysphoric persons at Eskenazi Gender Health.

94. In providing care to minor patients Riley providers rely on, among other sources, the Endocrine Society Guidelines and WPATH SOC 7.

95. Medicaid has paid claims submitted by Riley for puberty blockers, hormones, and office visits for treatments for gender dysphoria.

96. In Indiana, the Medicaid program is administered by the Indiana Family and Social Services Administration ("FSSA").

97. Medicaid reimbursement in Indiana is provided by FSSA for puberty blockers for minor Medicaid recipients regardless of diagnosis. Diagnosis codes are not required to be submitted as part of a Medicaid pharmacy claim.

98. FSSA provides reimbursement for estrogen prescribed for minor Medicaid recipients regardless of diagnosis. Diagnosis codes are not required to be submitted as part of a Medicaid pharmacy claim.

99. FSSA provides reimbursement for testosterone prescribed for minor Medicaid recipients subject to prior authorization. Prior authorization criteria do not include diagnosis of gender dysphoria and diagnosis codes are not required to be submitted as part of a Medicaid pharmacy claim. Prior authorization criteria for testosterone do include, among other possible sufficient criteria, confirmation the patient, regardless of

natal sex, has a total testosterone level less than or equal to 350 ng/dL within the past three months. For natal females, the normal testosterone range is below 100 ng/dL.

100. FSSA does not track medications for which it provides Medicaid reimbursement by the diagnosis of the patient, and is therefore unable to say how many minor Medicaid recipients with gender dysphoria, as opposed to minor Medicaid recipients with some other condition, have received reimbursement for puberty blockers, testosterone, and/or estrogen. FSSA has received no known requests for reimbursement for gender reassignment surgery for minors.

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